



**BILLING CODE 4310–55**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R3–ES–2013–N102]**

**[FXES11120300000F2-134-FF03E15000]**

**Final Environmental Impact Statement, Habitat Conservation Plan, and  
Implementing Agreement, NiSource Inc.**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are advising the public of the availability of the Final Environmental Impact Statement (FEIS) associated with an application received from NiSource Inc. (hereafter “NiSource”) for an incidental take permit (hereafter “ITP”) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). If issued, the ITP would authorize NiSource to take 10 federally listed species over a 50-year period. For record of decision availability, see

**DATES.** For directions on how to review the FEIS and related documents, see

**ADDRESSES.**

**DATES:** The Record of Decision will be available no sooner than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** *Document availability:* Documents and other information submitted with the application are available for review, subject to the requirements of the Privacy Act of 1974 (5 U.S.C. § 552a.) and Freedom of Information Act, by either of the following methods:

- *Internet:* You may obtain an electronic copy of the FEIS and related documents on the Internet at:  
  
*<http://www.fws.gov/midwest/endangered/permits/hcp/r3hcps.html>.*
- *U.S. Mail:* You may obtain an electronic copy of the FEIS and related documents on compact disk by submitting a request in writing to the U.S. Fish and Wildlife Service within 30-days of the date of publication of this notice, see **FOR FURTHER INFORMATION CONTACT.**
- *In-Person:* Printed copies of the documents are available for public inspection and review (by appointment only), at the office listed under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Magnuson, Regional HCP Coordinator, U.S. Fish and Wildlife Service, 5600 American Blvd. West, Suite 990, Bloomington, Minnesota 55437-1458; 612-713-5467.

**SUPPLEMENTARY INFORMATION:** We are advising the public of the availability of the Final Environmental Impact Statement (FEIS) associated with an application received from NiSource ITP pursuant to the ESA. If issued, the ITP would authorize NiSource to take 10 federally listed species over a 50-year period.

NiSource prepared a multi-species habitat conservation plan (MSHCP) to cover a suite of activities associated with operation, maintenance, and construction of their existing natural gas pipeline system in the States of Delaware, Indiana, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

The Service was the lead Federal agency for preparation of the FEIS. The Federal Energy Regulatory Commission (FERC), the U.S. Army Corps of Engineers (USACE), the U.S. Department of Agriculture (USDA) Forest Service (FS) Eastern Region and Southern Region, and the National Park Service (NPS) Southeast Region served as cooperating agencies.

## **Background**

NiSource, Inc., headquartered in Merrillville, Indiana, is engaged in natural gas transmission, storage, and distribution, as well as electric generation, transmission, and distribution. NiSource, Inc.'s wholly owned pipeline subsidiaries, Columbia Gas Transmission, LLC; Columbia Gulf Transmission LLC; Crossroads Pipeline Company; Central Kentucky Transmission Company; and NiSource Gas Transmission and Storage Company (companies referred to collectively as "NiSource"), are interstate natural gas

companies whose primary operations are subject to the Natural Gas Act (15 U.S.C. 717) and fall under the jurisdiction of the Federal Energy Regulatory Commission (FERC) and the U.S. Department of Transportation (USDOT). NiSource is seeking authorization under the ESA to take species in the course of engaging in otherwise lawful gas transmission and storage operations.

On July 16, 2009, NiSource filed an application with the Service for a Section 10(a)(1)(B) ITP for 10 ESA listed species known to occur within NiSource's operating territory. These species include the Indiana bat (*Myotis sodalis*), bog turtle (*Glyptemys muhlenbergii*), Madison Cave isopod (*Antrolana lira*), clubshell mussel (*Pleurobema clava*), northern riffleshell mussel (*Epioblasma torulosa rangiana*), fanshell mussel (*Cyprogenia stegaria*), James spinymussel (*Pleurobema collina*), sheepnose mussel (*Plethobasus cyphus*), Nashville crayfish (*Orconectes shoupi*), and American burying beetle (*Nicrophorus americanus*). The MSHCP was prepared to cover a 50-year timeframe.

The Covered Land for the MSHCP and requested ITP includes 12 counties in Maryland, Ohio, Pennsylvania, and West Virginia; and a 1-mile-wide corridor associated with 15,562 miles of existing NiSource right-of-way within the 14 aforementioned States.

The Covered Activities, or those NiSource activities that fall under the purview of the MSHCP and requested ITP, include a wide range of operation, maintenance, and new construction activities that are specific to NiSource Inc.'s wholly owned pipeline subsidiaries and to the Covered Land specified in the MSHCP.

The MSHCP evaluated 42 species that could potentially occur within the NiSource Covered Land, and that could potentially be impacted by NiSource Covered

Activities. However, after analysis of the 42 species and the Covered Land, it was concluded that NiSource Covered Activities will have no impact on 32 of the 42 species evaluated. Therefore, NiSource is requesting incidental take for the remaining 10 species, for which take could be minimized, but not avoided.

In addition to the 42 species evaluated in the MSHCP, 46 additional ESA-listed, proposed, or candidate species are either known to occur or potentially occur within the NiSource Covered Land. Potential impacts to these species are discussed in the FEIS and in the Service's Biological Opinion.

### **NEPA Compliance**

Issuance of an ITP by the Service to NiSource is a Federal action that may affect the quality of the human environment and therefore is subject to review under the National Environmental Policy Act (NEPA). To comply with the NEPA, the Service prepared an FEIS. The FEIS analyzes and discloses potential impacts that could result from issuance of an ITP to NiSource and through subsequent implementation of their MSHCP (Proposed Action). As required by the NEPA, the FEIS also evaluates alternatives to the Proposed Action, which were developed in response to public, stakeholder, and agency input.

### **Public Involvement**

On October 11, 2007, the Service published a Notice of Intent (NOI) to prepare an EIS in the Federal Register (72 FR 57953), to solicit participation of Federal, State, and local agencies, Tribes, and the public to determine the scope of the EIS and provide input

relative to issues associated with the proposed MSHCP project. In addition to the publication of the NOI, the scoping process included informal stakeholder and agency consultations, 13 public scoping meetings, and a mailing to approximately 1,300 known interested parties. The letter provided project information, information on scoping meetings, and contact numbers. Public scoping lasted until December 8, 2007. A Scoping Report is appended to the FEIS.

In accordance with the NEPA, a draft EIS and MSHCP were circulated for public review and comment. The public review period was initiated with the publication of the Notice of Availability (NOA) in the FR on July 13, 2011 (76 FR 41288), and the public comment period was extended for an additional 90 days (76 FR 63950). Three public meetings were announced in the NOA, and were held in Columbus, Ohio, on August 16, 2011; Lexington, Kentucky, on August 17, 2011; and Charleston, West Virginia, on August 18, 2011. The comment period closed on December 13, 2011. A variety of comments were received on the DEIS and associated MSHCP, and are available at <http://www.fws.gov/midwest/endangered/permits/hcp/nisource/index.html>. Written responses to these public comments are appended to the FEIS.

### **Authority**

We provide this notice under Section 10(c) of the ESA (16 U.S.C. 1531, 1539(c)) and its implementing regulations (50 CFR 17.22 and 17.32), and the NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR Part 46). We will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of Section 10(a)(1)(B) of the ESA. The Service's decision on whether to issue NiSource an ITP will occur no sooner

than 30 days after publication of this notice in the **Federal Register** and completion of the Record of Decision. If we determine that all requirements are met, we will issue an ITP to NiSource for incidental take of 10 species in accordance with their MSHCP and associated IA.

**Dated: May 9, 2013**

**/ signed /**

**Lynn Lewis**

**Assistant Regional Director,**

**Ecological Services,**

**Midwest Region.**

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